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10/613,868	07/05/2003	Alexander Medvinsky	D03042	6264

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EXAMINER
INGVOLDSTAD, BENNETT

ART UNIT	PAPER NUMBER
2623	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 April 2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 10 April 2008 have been fully considered but they are

not persuasive.

2.   Applicant has argued that the cited De Lang reference does not teach the claim

17 limitations. Page 9. The examiner respectfully disagrees.

3.   As previously cited, De Lang discloses a request for a video-on-demand

program, wherein the request specifies one of several modes that are allowed to be

used, wherein different modes are given different price rates. Therefore De Lang can be

reasonably construed to meet the limitation "determining whether a mode is being used"

(to grant the user access to different modes) "by monitoring the rate at which a

requesting process makes requests for decryption", i.e. by monitoring the desired price

rate associated with the request for the video-on-demand signal.

4.   Applicant has further argued that a price cannot be construed as a rate as

defined by claim 17. Page 9. However, Applicant's specification uses the term "rate" to

refer to a price for different playback modes. Spec para 0060.

5.   Therefore, the rejection using De Lang is upheld as meeting the broadest

reasonable claim interpretation consistent with Applicant's specification.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1-12, 14-16, 18-27, and 29-32 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Harada (US 2007/0198859) in view of Swix (US 6609253).

Regarding claim 1, Harada discloses a method of limiting playback of an

electronic presentation, wherein a playback device is used to play back the

electronic presentation [Abstract], the method comprising:

- obtaining a playback time limit for the playback device (usage condition

    data is transmitted S211 to playback device/headphone stereo [Fig 11]),

- measuring an actual cumulative time of the electronic presentation by the

    playback device (usage condition information may limit accumulated

    playback time [0075]);

- restricting playback of the electronic presentation based on the measured

    actual cumulative time and the playback time limit (playback is restricted

    when an accumulated time reaches a playback time limit [0075]).

Harada does not disclose measuring the actual cumulative time "based on monitoring the rate at which a requesting process makes requests for decryption of the electronic presentation".

Swix discloses a method for measuring an actual cumulative time of playback in order to restrict playback wherein the measurement of the cumulative time is based on monitoring the mode of playback; i.e., when different trick modes are selected, the cumulative time is adjusted differently. Figures 2, 3, and related description. Different modes are effectively the same as different playback rates; for example, monitoring that the mode is fast-forward is the same as monitoring that the rate of playback is 8 times the normal rate. Swix col. 3, l. 5-11.

It would have been obvious to one of ordinary skill in the art to modify Harada's playback time limit with the teaching of Swix's playback time limit in order to provide a playback time limit that adjusts the cumulative time based on the selected playback mode, thus allowing a viewer to use different modes without unfairly increasing the cumulative playback time.

Therefore, taken in combination, Harada in view of Swix discloses measuring a cumulative playback time limit based on monitoring the playback modes which are playback rates, the playback rates comprising rates of decryption requests because the decryption unit decrypts a stream of content for outputting to a playback unit [Harada 0199-0201], the reading of the content from a storage device comprising the decryption requests [Harada 0200], and the rate of the requests corresponding to the playback mode [Swix col. 3, l. 5-11].

Regarding claim 19, Harada in view of Swix, as combined in the claim 1 rejection,

discloses a method for limiting playback of an electronic presentation on a playback

device, the method comprising:

- receiving a playback time limit (usage condition data is transmitted S211

   to playback device/headphone stereo [Fig 11]);

- measuring an actual playback time of the electronic presentation at the

   playback device (measuring accumulated playback time [0119]) based on

   monitoring the rate at which a requesting process makes requests for

   decryption of the electronic presentation (based on monitoring the

   playback mode [Swix Fig 2, 3], which corresponds to the requesting rate);

   and

- comparing the actual playback time with the playback time limit to

   determine whether to permit additional playback of the electronic

   presentation (playback time is compared with usage condition information

   in order to permit viewing [0119]).

Regarding claim 31, Harada in view of Swix, as combined in the claim 1

rejection, discloses an apparatus for limiting playback of an electronic

presentation on a playback device, the apparatus comprising:

- a receiver for receiving a playback time limit (usage condition data is

   transferred S211 to playback device/headphone stereo [Fig 11]);

- a detector for measuring an actual playback time of the electronic

    presentation at the playback device (usage condition judgement unit 540

    [Fig 5] measures accumulated playback time [0119]) based on monitoring

    the rate at which a requesting process makes requests for decryption of

    the electronic presentation (based on monitoring the playback mode [Swix

    Fig 2, 3], which corresponds to the requesting rate); and

- a comparator for comparing the actual playback time with the playback

    time limit to determine whether to permit additional playback of the

    electronic presentation (usage condition judgement unit 540 [Fig 5]

    compares actual play time with limit to determine whether to allow

    playback [0119])

Regarding claim 32, Harada in view of Swix, as combined in the claim 1

rejection, discloses a computer-readable medium including instructions

executable by a processor (playback unit 500 [Fig 5] is a computer containing

processors e.g. usage condition judgement unit 540) for limiting playback of an

electronic presentation in a digital rights management system (usage condition

information [0031] limits playback rights), wherein a playback device is used to

play back the electronic presentation (playback device e.g. headphone stereo

500 [Fig 1]), the computer-readable medium comprising:

- one or more instructions for transferring a playback time limit to the

    playback device (usage condition data transferred S211 to playback

device [Fig 11]), wherein the playback time limit is used to restrict

playback of the electronic presentation according to a measure of actual

cumulative time of the electronic presentation by the playback device

(accumulated time information [0119]), wherein the actual cumulative time

is measured based on monitoring the rate at which a requesting process

makes requests for decrvption of the electronic presentation (based on

monitoring the playback mode [Swix Fig 2, 3], which corresponds to the

requesting rate).

Regarding claims 2 and 22, depending on claims 1 and 19 respectively, Harada

further discloses:

- wherein the playback time limit is provided in a content license transferred

  via a network to the playback device (usage condition information is

  transferred via a network to storage unit [0031], which connects to

  playback apparatus [0061])

Regarding claims 3 and 23, depending on claims 1 and 19 respectively, Harada

further discloses:

- wherein the playback time limit is derived from a running time of the

  electronic presentation (in addition to an accumulated playback time, the

  playback time limit may also comprise a limited number of playbacks

[0075], wherein the length of a playback is derived from a running time [0116])

Regarding claims 4 and 24, depending on claims 3 and 23 respectively, Harada further discloses:

- wherein the playback time limit is longer than the running time of the electronic presentation (user may be allowed multiple playbacks [0116])

Regarding claim 5, depending on claim 1, Harada in view of Swix further discloses:

- wherein a default playback time limit is derived (programs of different length have different default multipliers that define a playback time limit [col. 4, l. 29-45]).

Regarding claim 6, depending on claim 5, Harada in view of Swix further discloses:

- wherein the default playback time limit is derived from a computation (a multiplier is multiplied with a program length to create a playback time limit [col. 4, l. 29-45])

Regarding claim 7, depending on claim 6, Harada in view of Swix does not further specifically disclose:

- wherein the default playback time limit is derived by multiplying a running time of the electronic presentation by 1.75

However, Swix discloses that a playback time limit is derived by multiplying a running time by a multiplier in the range of 1.5 – 2.0 ([col. 4, l. 29-45]).

Because the claimed number 1.75 is an arbitrary number in the range disclosed by Swix, one of ordinary skill would have been able to choose the number 1.75 as a multiplier for the purpose of deriving a playback time limit. Therefore the invention as a whole would have been obvious to one of ordinary skill in the art due to the well known nature of choosing a multiplier in order to derive a playback time limit as disclosed by Swix.

Regarding claim 8, depending on claim 5, Harada in view of Swix further discloses:

- wherein the default playback time limit is derived from a stored value (a multiplier is stored in a computer in order to multiply it by a running length to derive a default playback time limit [col. 4, l. 29-45])

Regarding claims 9 and 26, depending on claims 1 and 19 respectively, Harada further discloses:

- wherein the playback device includes a server that provides streamed content (storage unit 400 connects to playback device 500 [Fig 1] and serves streamed content to e.g. headphones [0200])

Regarding claim 10, depending on claim 1, Harada further discloses:

- wherein the actual cumulative time does not include intervals where
  playback is stopped (time is accumulated during playback only [0119]).

Regarding claims 11 and 25, depending on claims 1 and 19 respectively, Harada
further discloses:

- obtaining a "number of plays" limit at the playback device, wherein the
  number of plays limit is used with the playback time limit to restrict
  playback of the electronic presentation by the playback device (usage
  condition information may include number of times content is played back
  [0075]).

Regarding claims 12 and 27, depending on claims 1 and 19 respectively, Harada
in view of Swix further discloses:

- wherein the playback device includes both secure and non-secure
  processing (playback device 500 [Fig 5] includes secure decryption unit
  519 and non-secure output from playback unit 541 to e.g. headphones
  700 [Fig 1]), wherein the playback device is couple to a server processor
  via a network [Swix Fig 1], the method further comprising:

- transferring the playback time limit to the playback device for secure

  processing (usage condition data is transferred S211 from memory card to

  playback device/headphone stereo [Fig 11]); and

- using the secure processor to transfer at least a portion of the electronic

  presentation to the playback device for rendering, at least a portion of the

  rendering to take place in the non-secure processing (encrypted content is

  sent S214 to playback device/headphone stereo securely with encryption

  [Fig 11] and rendered as a nonsecure analog signal for headphones 700

  [Fig 1])

Regarding claims 14 and 29, depending on claims 1 and 19 respectively, Harada

further discloses:

- wherein the actual cumulative time does not include time during which the

  electronic presentation is not being played back (the accumulated time

  information limits "the length of time that the user is able to play back the

  content" [0119], therefore only playback increases the cumulative time).

Regarding claim 15, depending on claim 14, Harada further discloses wherein

the playback device includes secure processing and non-secure processing

(playback device 500 [Fig 5] includes secure decryption units 519 and 550 and

secure usage condition judgement unit 540 as well as non-secure output from

playback unit 541 to e.g. headphones 700 [Fig 1]), the method further

comprising:

- using the non-secure processing to determine when one of the following

   modes of playback have been selected by a user: pause, fast forward,

   rewind, stop, variable speed playback, variable speed rewind (in order to

   determine whether to update the remaining play time [Swix col. 3, l. 62-

   col. 4, l. 14]);

- using the secure processing to update the actual cumulative time in

   response to one or more of the modes determined by the non-secure

   processing (secure usage condition judgement unit 540 judges whether

   actual cumulative time exceeds limits [0193], which implies that it handles

   updating the actual cumulative time)

Regarding claim 16, depending on claim 15, Harada in view of Swix further

discloses:

- omitting update of the actual cumulative time for the modes of pause (the

   end time is updated in order to keep the cumulative time the same [col. 5,

   l. 6-8]), […], and stop ([col. 5, l. 45-46]).

Harada in view of Swix does not further disclose omitting update of the actual

cumulative time for the mode of rewind.

One of ordinary skill in the art would have been able to apply Swix's teaching

regarding the modes of stop and pause to the mode of rewind for the purpose of

letting the user activate VCR-like functions without subtracting from the viewer's allotted playback time. Therefore the invention as a whole would have been obvious due to the well known nature of omitting update of the actual cumulative time for trick play modes as disclosed by Swix.

Regarding claim 18, depending on claim 15, Harada in view of Swix does not further disclose:

- omitting update of the actual cumulative time for the mode of fast forward

One of ordinary skill in the art would have been able to apply Swix's teaching regarding the modes of stop and pause (see claim 16 rejection) to the mode of fast forward for the purpose of letting the user activate VCR-like functions without subtracting from the viewer's allotted playback time. Therefore the invention as a whole would have been obvious due to the well known nature of omitting update of the actual cumulative time for trick play modes as disclosed by Swix.

Regarding claim 20, depending on claim 19, Harada further discloses:

- wherein the step of comparing is performed in response to a request to decrypt a portion of the electronic presentation (playback apparatus decrypts information before playing [0069] and playing comprises comparing accumulated playback time with time limits [0119])

Regarding claim 21, depending on claim 20, Harada further discloses:

- wherein the request to decrypt a portion of the electronic presentation is made to a secure processor (playback apparatus and recording apparatus perform secure device authentication [0060])

Regarding claim 30, Harada in view of Swix discloses

- wherein the actual cumulative time does not include time during which the electronic presentation is in one or more of the following modes: pause (the end time is updated in order to keep the cumulative time the same [Swix col. 5, l. 6-8]), rewind, or stop ([Swix col. 5, l. 45-46]).

8.   Claim 13 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harada (US 2007/0198859) in view of Swix (US 6609253), further in view of Hammons (US 2006/0080727).

Regarding claims 13 and 28, depending on claims 12 and 27 respectively, Harada in view of Swix further discloses:

- wherein a secure processor is used to perform the secure processing (decryption units 519 and 550 perform the secure processing [Harada Fig 5]), the method further comprising:

Harada in view of Swix does not further specifically disclose:

- using the secure processor to receive a secure time signal via the network; and

- using the secure time signal with the playback time limit to restrict

    playback of the electronic presentation by the playback device

Hammons discloses in an analogous art a server that provides a secure time

signal via a network ([0015, 0022])

It would have been obvious to one of ordinary skill in the art to provide a

secure time service received via the network for the playback device of Harada in

view of Swix for the purpose of providing a secure time (Hammons 0022])

because the playback device relies on an accurate time in order to restrict

playback of the electronic presentation to a specific time period ([Harada 0117]).

9.   Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harada

(US 2007/0198859) in view of Swix (US 6609253), further in view of De Lang (US

6020912).

Regarding claim 17, depending on claim 16, Harada in view of Swix does not

further disclose:

- determining whether a mode is being used by monitoring the rate at which

    a requesting process makes requests for decryption

De Lang discloses a method of limiting playback of an electronic presentation,

wherein a playback device is used to play back the electronic presentation, the

method comprising:

- determining whether a mode is being used by monitoring the rate at which

    a requesting process makes requests for decryption (the playback device

    monitors the price rate of the decryption request to determine which

    playback modes are allowed to be used [col. 1, l. 54-64])

It would have been have obvious to one of ordinary skill in the art to modify

the method of Harada in view of Swix with the teaching of De Lang's method for

the purpose of providing tiered service levels so that users can pay more to

activate VCR-like functions ([De Lang col. 1, l. 54-64]).

Conclusion

10.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENNETT INGVOLDSTAD whose telephone number is (571)270-3431. The examiner can normally be reached on M-Th 8-6:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bennett Ingvoldstad/
Examiner, Art Unit 2623

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